

NEDRA DENISON,

Plaintiff,

vs.

No. 1:14-CV-00531 LH-KBM

ENGINEERED SOLUTIONS L.P. d/b/a
POWER GEAR and JAYCO, INC.,

Defendants.

DEPOSITION OF NEDRA DENISON
March 30, 2015
8:55 a.m.
at the Offices of
SHEEHAN & SHEEHAN, P.A.
40 First Plaza, NW, Suite 740
Albuquerque, New Mexico 87102

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: MR. CRAIG T. ERICKSON
ATTORNEY FOR THE DEFENDANTS

REPORTED BY: DENISE KOPAN, CCR #124
KATHY TOWNSEND COURT REPORTERS
110 Twelfth Street, NW
Albuquerque, New Mexico 87102

24

1 exactly the same size as my Golden Retriever. So he is
2 about 60, 65 pounds.

3 Q. Okay. So he is a smaller Newfie?

4 A. Yes, because he really isn't -- he is only
5 recognizable as a Newfie because of his fur.

6 Q. Okay.

7 A. It's thick.

8 Q. Okay. And how old were the dogs in 2011?

9 A. Probably about four years old.

10 Q. I'm sorry, four?

11 A. About three or four.

12 Q. Three or four, okay. All right. And so you
13 decide to head out to go to the show?

14 A. No. We were going out to take the dogs for a
15 walk.

16 Q. Okay.

17 A. Our normal routine.

18 Q. Okay. And was this the first time that
19 morning that the dogs had been out?

20 A. Yes.

21 Q. Okay. And when you take them out for a walk,
22 tell me about that.

23 What was the typical --

24 A. Okay. Usually, Al takes the dogs out first
25 and then I walk down the steps with Shadow's, my

2 Q. And what year was that?

3 A. '73, I think. Somewhere around that.

4 Q. Okay. Let's turn to the incident that this
5 lawsuit is about.

6 Do you remember what the date of the incident
7 was?

8 A. February 13th.

9 Q. Of what year?

10 A. 2011.

11 Q. Okay. And I'd like you to think back and
12 tell me what the first thing you did was that morning.

13 A. Get up, get dressed, and then walk out of the
14 coach.

15 Q. Okay. Do you recall how you felt that
16 morning when you first got up?

17 A. Fine.

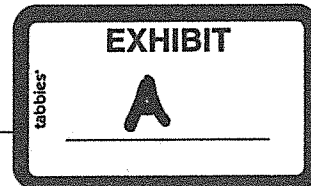
18 Q. And for you, at that point in your life, what
19 does that mean?

20 A. I was, I guess, energized. We were getting
21 ready to go to the show.

22 Q. Okay. One of the art shows?

23 A. One of the wood-carving shows.

24 Q. Okay. And did you have any physical problems
25 that day?



25

1 flat-coat's, leash.

2 Q. Okay. And why does Al usually take the dogs
3 out first?

4 A. Because they are bigger and they get excited
5 and he can handle them better.

6 Q. Okay. And I assume, like most dogs, they get
7 excited about going outside the first time in the
8 morning?

9 A. Yes. They just get excited going outside.

10 Q. Okay. Had they eaten yet?

11 A. No.

12 Q. Okay. What's the typical protocol for
13 feeding them?

14 A. We take them out for their morning whatever,
15 go for a walk, come back, feed them.

16 Q. Okay.

17 A. And then they go out one more time and then
18 we go off to the show.

19 Q. Are they the kind of dogs that get excited
20 about eating, as well?

21 A. Yes.

22 Q. And so tell me a little bit about the motor
23 home, itself.

24 Do you call it a "motor home"?

25 A. Yes, or coach.

1 A. That's right, yes.
 2 Q. All right. And so when you are leaving this
 3 particular coach, what do you have to do to get out of
 4 it?
 5 A. The stairs are already out. So all you do is
 6 just open the door and walk out.
 7 Q. Okay. Meaning the exterior stairs are out
 8 already?
 9 A. Yes.
 10 Q. Are there any interior stairs?
 11 A. In that coach, I am sure there was at least
 12 one.
 13 Q. Okay. Do you remember if there was one or
 14 two?
 15 A. I do not.
 16 Q. I have heard some reference to there being
 17 two interior stairs.
 18 A. It could be.
 19 Q. Okay.
 20 A. It's been a long time.
 21 Q. Okay. And how many exterior stairs were
 22 there?
 23 A. Three.
 24 Q. And when you have your coach parked
 25 somewhere, do you typically leave the exterior stairs

1 A. We were actually scheduled to leave the next
 2 day.
 3 Q. Okay. So you were essentially living there
 4 at that point?
 5 A. Yes.
 6 Q. Okay. And I don't think we have identified
 7 the location.
 8 Where were you?
 9 A. Apache Junction, Arizona.
 10 Q. Okay. And what's the name of the RV park
 11 that you were at?
 12 A. Superstition Buttes.
 13 Q. All right. And you had been there
 14 previously, as I understand?
 15 A. Yes, several years we have been going there.
 16 Q. Okay. So because you had been staying there,
 17 the stairs were already extended?
 18 A. Correct.
 19 Q. Okay. And do you have a vehicle that you
 20 tow, as well?
 21 A. Yes.
 22 Q. And what kind of a vehicle is that?
 23 A. A Ford Flex.
 24 Q. So once you get to your location, that's what
 25 you use, the Flex is what you use to drive around?

1 extended.
 2 A. Yes.
 3 Q. Because they have a feature, don't they,
 4 where they can electrically retract?
 5 A. It's not a feature. Well, yes, it is. Most
 6 coaches have automatic steps.
 7 Q. Uh-huh.
 8 A. You can turn it off so that it doesn't do
 9 that, but if you are driving along and you are stopping
 10 along the side of the road to take the dogs for a walk
 11 or something, the steps will be retracted.
 12 Q. While you are driving?
 13 A. Yes, while you are driving. You wouldn't
 14 want to drive with them open. When you open the door,
 15 they go automatically, they extend, and then once you
 16 are parked some place for a period of time, you lock it
 17 in place so that it stays extended.
 18 Q. Okay.
 19 A. And that way, you don't have to worry about
 20 them opening and closing.
 21 Q. And when you have done as you did, you had
 22 been there at least the night before -- do you remember
 23 how long you had been at this location prior --
 24 A. Three months.
 25 Q. Three months?

1 A. No. Actually, when we are going someplace
 2 like for three months, I drive my car.
 3 Q. Okay.
 4 A. My husband tows his car.
 5 Q. Oh, so you had two cars with you?
 6 A. Yes.
 7 Q. All right. So tell me in as much detail as
 8 you can recall what happens when you make the decision
 9 that it's time to go out to take the dogs outside. You
 10 are both in the coach.
 11 A. We are all in the coach, Al puts the leashes
 12 on the dogs, he goes out, and then I follow.
 13 Q. Okay.
 14 A. Lock the door.
 15 Q. And so he goes down the steps with the dogs?
 16 A. Correct.
 17 Q. Did anything happen with the dogs on the way
 18 out of the coach that was unusual in any way?
 19 A. No.
 20 Q. Okay. And did he get all the way out of the
 21 coach before you left?
 22 A. Yes.
 23 Q. How long were you still in the coach before
 24 he left?
 25 A. Less than a minute.

1 Q. Okay. And so you would say what you were doing?

2 A. Getting my jacket on.

3 Q. Okay. And when you left, I guess, the floor,

4 what I would consider the main floor of the coach, you

5 headed down these steps; is that correct?

6 A. Correct.

7 Q. All right. And tell me what happened.

8 A. I don't know if I was on the middle step or

9 the bottom step, I honestly don't. I just remember

10 feeling like something dropped and then landing on the

11 ground.

12 Q. Okay. And when you say "middle or bottom,"

13 we are talking about just the exterior steps?

14 A. Correct.

15 Q. And as I understand it, you are clear on the

16 fact that there were three exterior steps?

17 A. Yes.

18 Q. Okay. So it would be the one the furthest

19 out of the extended steps or the next one up?

20 A. Correct.

21 Q. Okay. And when you say it dropped, I'd like

22 you to describe that for me in as much detail as you

23 can.

24 A. It's hard to describe, but it just felt like

25 something was coming out from under my feet, like it

36

1 had with your husband when you first landed,

2 essentially?

3 A. There was no conversation until Shadow got

4 off of me.

5 Q. Uh-huh.

6 A. The only thing I was saying was trying to get

7 the dog off my lap.

8 Q. Okay. And how long did that last?

9 A. I don't know. A few minutes.

10 Q. Okay. Was there any discussion at that point

11 in time about how you fell down the stairs?

12 A. No.

13 Q. Al didn't ask you what happened or how it

14 happened?

15 A. No.

16 Q. When was the first discussion that the two of

17 you had about how it happened?

18 A. I guess after we got up and came back from

19 the ER and we looked at the steps.

20 Q. Okay. And then what was the discussion then?

21 A. It looked like the steps had broken, because

22 they were listing to one side.

23 Q. And explain that to me.

24 A. Looking at them, it was the left side, but

25 coming down, it would have been the right. That left

32

1 just fell.

2 Q. And was that a dramatic sensation, or how

3 much did it drop?

4 A. I can't say for sure.

5 Q. Okay.

6 A. It just felt like it dropped at least an inch

7 or two.

8 Q. Okay.

9 A. I can't say specifically how much.

10 Q. Okay.

11 A. All I know is that I just felt like I was

12 falling and I did.

13 Q. Okay. And describe that fall to me in as

14 much -- create the best picture you can for me to

15 understand what happened there.

16 A. I guess what normally happens when people

17 fall down is my hands went down, and because it was the

18 right side, this side took the brunt of it, because the

19 bone was protruding.

20 Q. "This side" being the right hand?

21 A. My right hand. I landed on my butt, my

22 hands, and I guess my legs went in like this and

23 twisted my ankle.

24 Q. So you just described -- because this won't

25 be clear on the record -- you said your legs went "like

37

1 side was lower than the other side.

2 Q. So just to get a picture of this, as I

3 understand it, you were standing outside of the mobile

4 home looking at the mobile home?

5 A. Correct.

6 Q. Facing the stairs?

7 A. Yes.

8 Q. And as you looked toward the stairs facing

9 the stairs, you are talking about the left side being

10 lower than the other side?

11 A. Correct.

12 Q. Was the left side closer to the front of the

13 mobile home or the back of the mobile home?

14 A. The back.

15 Q. Or the coach. Okay. The left side is closer

16 to the back?

17 A. To the back.

18 Q. Of the coach?

19 A. Yes.

20 Q. Okay. And how much lower was it?

21 A. I couldn't tell you. My husband may be able

22 to --

23 Q. Okay.

24 A. -- give you a better answer.

25 Q. To put it a different way, how obvious was it

1 to you that --

2 A. It was very obvious, yes.

3 Q. So there was some significant drop on the
4 left side, is that what you are saying?

5 A. Yes.

6 Q. But you don't know if that's an inch or two
7 inches or what that is?

8 A. No.

9 Q. Okay.

10 A. The only way I would know for sure is if I
11 got a ruler.

12 MR. TRAVERS: Are you getting her?

13 MS. KOPAN: Yes, but if you could wait until
14 he is finished with the question, I would appreciate
15 it. Thank you.

16 Q. (By Mr. Erickson) Okay. So you are saying
17 that when you looked at the steps, at this point, it
18 was really obvious that it was lower on the left side
19 than on the right?

20 A. Yes.

21 Q. Okay. Had you noticed that at any point
22 before this incident?

23 A. No.

24 Q. Is it your belief that it happened in this
25 incident?

1 Q. Okay. Did you notice anything else other

2 than that that you thought was wrong with the steps
3 when you got back from the ER?

4 A. We didn't look.

5 Q. All right. So the one thing you saw when you
6 got back from the ER was that the step was lower on the
7 left than on the right?

8 A. Yes.

9 Q. Okay. And then a few days later, you went to
10 Tom's RV Service Center and he talked to you about the
11 weld?

12 A. After he had looked at it.

13 Q. Okay. And then did you look at it, as well?

14 A. As best we could, but I didn't see what he
15 was talking about.

16 Q. Okay. And did he remove the steps that day,
17 do you recall?

18 A. Not that day.

19 Q. Okay. Did he ever remove them?

20 A. Yes.

21 Q. When was that?

22 A. I don't know for sure. I know that he
23 ordered replacement steps, and once those came in, then
24 he took it off. I don't know exactly when that was.

25 Q. Okay. And so you were continuing to use the

1 steps?

2 A. No.

3 Q. You were not?

4 A. It stayed there the entire time.

5 Q. What do you mean, "stayed there"?

6 A. At Tom's RV.

7 Q. Oh, okay. Let me back up a little bit. We
8 are getting ahead of ourselves.

9 So you are in Arizona -- let's back up a
10 little bit in time -- and you have had this problem and
11 you come back from the ER and you see that the steps
12 are lower on one side than the other?

13 A. Yes.

14 Q. Did you continue to use the steps after that
15 until you went to Tom's?

16 A. Yes. We had to drive home.

17 Q. Okay. And did they retract so you could
18 drive home without any problem?

19 A. Yes.

20 Q. Okay. And did you go up and down the steps
21 that day after you got back from the ER?

22 A. Yes.

23 Q. And was there any problem with the steps at
24 that point?

25 A. It had more give.

1 Q. And can you describe that for me?

2 A. When you stepped on it, it gave a little bit
3 more than it did before.

4 Q. Okay. And did you have any sense with these
5 steps before you felt that there was any give in these
6 steps?

7 A. There is always a little give, especially
8 with a step that's designed with three steps.

9 Q. Because it extends out from the side of the
10 vehicle?

11 A. Correct.

12 Q. Okay. And so you were aware of some give
13 prior to this?

14 A. Yes.

15 Q. Was it different than the give that you
16 experienced on this day when you fell?

17 A. Yes.

18 Q. And how was it different?

19 A. It gave more.

20 Q. Okay. Are you able to quantify that in any
21 way?

22 A. It didn't feel secure.

23 Q. Okay. How do you mean?

24 A. It almost felt soft. I am not sure how to
25 describe it. Just, you know, when you stepped on it,

1 Q. Okay.

2 A. Just one side.

3 Q. And so as you are coming down the stairs, the

4 side to your left remained stable; is that your

5 understanding?

6 A. Yes.

7 Q. How many times would you say you actually

8 used these steps after you fell from them?

9 A. Maybe four or five times.

10 Q. Other than the observation that you made that

11 the left side was lower than the right as you looked at

12 the steps from outside the coach, did you ever see

13 anything else with the steps that you thought was wrong

14 with them?

15 A. Before or after?

16 Q. Before or after.

17 A. Before, I never saw anything. After, yes,

18 they dropped.

19 Q. Okay. And that's my question.

20 Did you see anything more than that, than the

21 fact that they were drooping on the left side?

22 A. No.

23 Q. I am about to head into a new area.

24 Do you want to take a break before we do

25 that?

1 A. I did lose some weight for awhile and then it

2 came back.

3 (Exhibit 11 marked.)

4 Q. (By Mr. Erickson) Then Exhibit 11. This is

5 a March 10th, 2008, record with Phillip Steinbaugh.

6 Do you see that?

7 A. Yes.

8 Q. He is a PAC, physician's assistant certified,

9 I believe?

10 A. Yes.

11 Q. Do you remember Mr. Steinbaugh?

12 A. Yes.

13 Q. Okay. And here, you were there with a "right

14 wrist ulnar styloid fracture."

15 Do you see that?

16 A. Yes.

17 Q. And this was in 2008; is that right?

18 A. Yes.

19 Q. In reading the history of the problem you

20 were presenting with, it appears that you had had a

21 fall two days before this, on March 8th, 2008.

22 Do you see that?

23 A. Yes.

24 Q. When you fell on the stairs at your home?

25 A. Yes.

1 Q. Was that in Belen?

2 A. Yes.

3 Q. Okay. And how did you fall down the stairs

4 at your home?

5 A. Walking down, I think it's three steps, and

6 the last step just went down.

7 Q. And what caused you to fall?

8 A. I can only tell you what my husband said,

9 that the steps were not evenly made, they were 12

10 inches, 12 inches, and nine.

11 Q. Okay. In terms of the width --

12 A. The depth.

13 Q. The depth of each step?

14 A. Yes.

15 Q. You are talking about the horizontal depth?

16 A. Yes. So the steps that you step down on are

17 here, and that's the -- what I am calling the "depth."

18 Q. The horizontal measurement --

19 A. Okay.

20 Q. -- from the front to the back of the step?

21 A. Yes.

22 Q. Okay. And are these inside or outdoor steps?

23 A. They are from the house to the garage.

24 Q. Okay. So down into the garage?

25 A. Yes.

1 Q. Okay. And the third step down is the one

2 with less depth?

3 A. Yes.

4 Q. Okay. And did you think that was why you

5 fell, or do you know why you fell?

6 A. I didn't know.

7 Q. I assume you had been on these steps before?

8 A. Oh, yes.

9 Q. Many times?

10 A. Many, many.

11 Q. And this is the house you still own, right?

12 A. Yes.

13 Q. When did you buy it?

14 A. We closed on it August of 2007.

15 Q. Okay. So at this point in time, you would

16 have had that house for about, what is that, eight or

17 nine months?

18 A. Yes.

19 Q. Okay. And how were you injured in this fall?

20 A. I thought I just had a bad sprain, but I

21 guess they discovered that there was a hairline

22 fracture.

23 Q. And do you know which bone the hairline

24 fracture was in?

25 A. The ulna.

1 Q. And this is the right arm?

2 A. Yes.

3 Q. Okay. And here, this record, do you see

4 under "Review of Systems" where it says that you were

5 "Positive for chronic neck, hip, low back pain,

6 obesity, and hypothyroidism"?

7 A. Yes.

8 Q. As well as "Depression, asthma, migraines,

9 and history of renal stones"?

10 A. Yes.

11 Q. Okay. And was it your understanding that

12 these were current symptoms at this point in time?

13 A. I had not had migraines in years.

14 Q. Okay. The other things were current as of

15 March of 2008?

16 A. Depression, no; asthma, no; renal stones --

17 well, this is his history.

18 Q. So as of March of 2008, you were having

19 problems with neck pain, hip pain, low back pain,

20 obesity?

21 A. Hypothyroidism, and hypertension.

22 Q. Okay. And then if you jump down to "Vital

23 Signs," about two-thirds of the way down the page, do

24 you see where it says "She is five feet, four"?

25 A. Yes.

2 top?

3 A. Yes.

4 Q. It says, "Reason for Visit: Both hips and

5 knees."

6 Do you see that?

7 A. Yes.

8 Q. So as of November 18th, 2010, you were

9 reporting to New Mexico Orthopaedics that you were

10 having problems with both your hips and both your knees

11 again; is that right?

12 A. Yes.

13 (Exhibit 23 marked.)

14 Q. (By Mr. Erickson) And Exhibit 23 is a record

15 from Mountain Vista Medical Center.

16 Is that the ER that you went to in Arizona?

17 A. Yes.

18 Q. And this one is dated -- should be dated

19 February 13th, 2011.

20 A. Yes.

21 Q. At the bottom, it is, do you see that, "Date

22 of Service"?

23 A. I do.

24 Q. And do you see the box that says "History of

25 Present Illness" at the top of the left --

1 A. Yes.

2 Q. And here they circled the word "Fell."

3 Do you see that?

4 A. Yes.

5 Q. This is under "Mechanism of Injury: "Fell."

6 A. Yes.

7 Q. And then it says "Tripped."

8 Do you see that?

9 A. Yes.

10 Q. Did you tell them that you tripped?

11 A. Yes.

12 Q. And what did you trip over?

13 A. A dog.

14 Q. A dog?

15 A. Yes.

16 Q. And so did you trip over a dog when you fell

17 in the fall that's the subject of this lawsuit?

18 A. Oh, no.

19 Q. Okay. You understand this is the day you

20 went to the ER after your fall down the stairs.

21 A. Oh. Then no, I don't know where that came

22 from.

23 Q. Okay. When did you trip over a dog and fall?

24 A. A couple of years prior.

25 Q. Prior to this fall?

1 A. Yes.

2 Q. Did you get injured?

3 A. I broke my glasses.

4 Q. Okay. Did you injure your body?

5 A. No. Well, just where the glass broke, it cut

6 my eye.

7 Q. So do you know why -- do you know who filled

8 out this form?

9 A. Well, it wasn't me.

10 Q. Do you know why it would say that you tripped

11 if you didn't say that you tripped?

12 A. I have no idea.

13 (Exhibit 24 marked.)

14 Q. (By Mr. Erickson) Then let's move to Exhibit

15 24.

16 And do you see that this is an Emergency

17 Department Visit Record for February 13th, 2011, at

18 Mountain Vista Medical Center?

19 A. Yes.

20 Q. And then I believe this is the doctor's

21 actual report from that visit.

22 Do you see that?

23 A. Yes.

24 Q. And do you see on page two, close to the

25 bottom, where it says "History of Present Illness,

1 You were there with bilateral foot pain,
2 guess, in June of 2013, and if you go to the second --
3 I'm sorry, the third page, at the bottom of the page,
4 under "History of Present Illness," about halfway
5 through that paragraph, it says, "Secondly, she injured
6 the right foot approximately one month ago."

7 My question is, do you remember how you
8 injured your foot in June of 2013?

9 A. Oh, it got stuck on the rug.

10 Q. What do you mean?

11 A. My bones are fused in the toes. And so I
12 can't move them, and it got stuck in a rug.

13 Q. Okay.

14 A. An area rug.

15 Q. And did you fall?

16 A. No. It just twisted the toe.

17 Q. Because you couldn't move your foot?

18 A. Right. Well, I couldn't move the toe.

19 Q. Okay. What kind of a rug is it?

20 A. Just an area rug in the coach.

21 Q. What's your smoking history?

22 A. I quit smoking May 11th, 1992.

23 Q. Wow. That's a good memory.

24 A. It is.

25 Q. That must have been a big day?